

IN THE DISTRICT COURT OF CREEK COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
CREEK COUNTY SAPULPA OK

OCT 26 2020

TIME 10:18
Amanda VanOrsdol, COURT CLERK

DONALD LOVE ALLEN, JR., an individual,)
SANDY ALLEN, an individual and)
SCHELLENBURG ENTERPRISES, INC. d/b/a)
DIAMOND S. TRUCKING, a domestic for)
Profit company,)

Plaintiffs,)

vs.)

WILLIAM EDWARD TEMPLEMAN,)
an individual, and SAV EXPRESS INC.)

Defendants.)

LAWRENCE PARISH

Case No. CJ 2020- 255

PETITION

Plaintiffs Donald Love Allen, Jr., and Sandy Allen, for their causes of action against Defendants William Edward Templeman and Sav Express Inc. alleges and states as follows:

Parties, Jurisdiction and Venue

1. Plaintiffs Donald L. Allen, Jr. and Sandy Allen are citizens of the State of Oklahoma and residents of Broken Arrow, Tulsa County, Oklahoma.
2. Plaintiff, Schellenberg Enterprises, Inc. is a domestic company doing business in Oklahoma with an address of P.O. Box 520, Latonia, OK 74014.
2. Defendant William E. Templeman is a resident of Floresville, Texas.
3. Defendant Sav Express Inc. is a trucking company operating in and through the State of Oklahoma with its address being 11325 Xeon St. NW, Coon Rapids, MN 35448.

4. The collision at issue in this case occurred on the Turner Turnpike near Kellyville, Creek County, Oklahoma.

5. Plaintiffs are requesting damages in excess of the amount required for diversity jurisdiction under 28 USC §1332 (currently \$75,000.00).

6. Jurisdiction and venue are thus proper in this Court.

Factual Background

7. On October 17, 2019, Plaintiff Donald L. Allen, Jr. was on the shoulder of the Turner Turnpike near the Kellyville exit, facing eastbound, due to a maintenance issue with his tractor-trailer. At the time Mr. Allen was a tractor trailer driver working for Plaintiff Schellenberg Enterprises, Inc.

8. Defendant William Templeman was eastbound on the Turner Turnpike, driving a 2011 Freightliner tractor-trailer owned by Defendant Sav Express Inc. Defendant Templeman was in the course and scope of his employment with Defendant Sav Express at the time of the collision.

9. Plaintiff Schellenberg Enterprises, Inc. is a domestic for Profit Company operating in Oklahoma with an address of P.O. Box 520, Latonia, OK 74015.

10. For an unknown reason, Defendant Templeman's tractor-trailer left the roadway to the right and collided violently with the tractor-trailer driven by Plaintiff Allen.

11. Plaintiff Allen suffered severe injuries as a result of the collision, and was transported from the collision scene by ambulance.

Count I – Negligence
(Against Defendant Templeman)

12. Paragraphs 1 through 11 are incorporated herein by reference.

13. Defendant Templeman failed to exercise due care in the operation of his tractor-trailer, including failing to devote full attention to his driving.

14. Defendant Templeman's negligent operation of the tractor-trailer caused the collision and resulting injuries to Plaintiffs.

15. Defendant Templeman's negligent and reckless conduct was the direct and proximate cause of Plaintiff's injuries.

16. Plaintiffs are entitled to recover damages against Defendant Templeman as a result of his negligent and reckless conduct.

Count II – Respondeat Superior/Vicarious Liability
(Against Defendant Sav Express Inc.)

17. Paragraphs 1 through 13 are incorporated herein by reference.

18. Defendant Templeman's negligent driving was committed while he was in the course and scope of his employment with Defendant Sav Express.

19. Defendant Sav Express is liable for the injuries directly and proximately caused by the negligence of Defendant Templeman under the theories of respondeat superior/vicarious liability.

20. Plaintiff Allen is entitled to recover damages against Defendant Sav Express.

Count III – Negligent Entrustment
(Against Defendant Sav Express)

21. Paragraphs 1 through 17 are incorporated herein by reference.

22. Defendant Sav Express owned the tractor-trailer driven by Defendant Templeman at the time of the collision complained of herein.

23. Defendant Sav Express knew or should have known that it was unsafe to allow Defendant Templeman to drive the tractor-trailer, and that doing so would endanger the safety of other motorists.

24. Defendant Sav Express negligently entrusted the tractor-trailer to Defendant Templeman.

25. Defendant Sav Express negligent entrustment was a proximate cause of Plaintiffs' injuries.

26. Plaintiffs are entitled to recover damages against Defendant Sav Express as a result of its negligent entrustment.

Count IV – Negligent Hiring, Training, and/or Supervision
(Against Defendant Sav Express)

27. Paragraphs 1 through 23 are incorporated herein by reference.

28. Defendant Sav Express negligently and improperly hired, trained and/or supervised Defendant Templeman.

29. Defendant Sav Express negligence was a proximate cause of Plaintiffs injuries.

30. Plaintiffs are entitled to recover damages against Defendant Sav Express as a result of its negligence.

Compensatory Damages Sustained by Plaintiff

31. The injuries and damages sustained by the Plaintiff Donald L. Allen, Jr. as a result of Defendants' negligence, include but are not limited to the following:

- A. Plaintiff's physical pain and suffering, past and future;
- B. Plaintiff's mental pain and suffering, past and future;
- C. Plaintiff's age;
- D. Plaintiff's physical condition immediately before and after the accident;

- E. The nature and extent of Plaintiff's injuries;
- F. Whether the injuries are permanent;
- G. The physical impairment;
- H. The disfigurement;
- I. Loss of earnings/time;
- J. Impairment of earning capacity;
- K. The reasonable expenses of the necessary medical care, treatment, and services, past and future, which at the present time are approximately \$50,000.00.

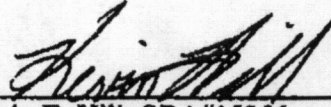
Pursuant to the provisions of 12 O.S. §3226(A)(2)(a), Plaintiff Donald L. Allen, Jr. submits this preliminary computation of damages sought in this lawsuit. As this is an action for injuries suffered by an adult, Plaintiff advises that all damages recoverable by law are sought, including those listed in OUJI3d 4.1. Other than the amounts which are capable of being ascertained to some degree of certainty, Plaintiff Donald L. Allen, Jr. is unable to guess or speculate as to what amount of damages a jury might award.

That Plaintiff, Sandy Allen, who is the wife of Donald Allen sustained a loss of spousal consortium as a result of the injury to Donald Allen and has lost the services, society, comfort, companionship and the marital relationship of Donald Allen and is entitled to recover damages from Defendants.

Plaintiff Schellenberg Enterprises, Inc. sustained property damages and loss of income in excess of \$40,000 as a result of Defendant's negligence.

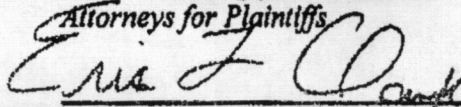
WHEREFORE, Plaintiffs Donald Love Allen, Jr. Sandy Allen and Schellenberg Enterprises, Inc. prays for judgment against Defendants in excess of \$75,000, plus interest, costs, punitive damages and all such other and further relief to which he may be entitled.

Respectfully submitted,



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